

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Third Amended  
Accusation Against:**

**Pirouz Fakhraei, M.D.**

**Physician's and Surgeon's  
Certificate No. A 119144**

**Case No.: 800-2018-043342**

**Respondent.**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 23, 2023.**

**IT IS SO ORDERED: February 21, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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**Laurie Rose Lubiano, J.D., Chair  
Panel A**

1 ROB BONTA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
4 State Bar No. 131672  
455 Golden Gate Avenue, Suite 11000  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Third Amended  
Accusation Against:

13 **PIROUZ FAKHRAEI, M.D.**  
14 **401 Bicentennial Way**  
**Santa Rosa, CA 95403-2149**

15 **Physician's and Surgeon's**  
16 **Certificate No. A 119144**

17 Respondent.

Case No. 800-2018-043342

OAH No. 2022050936

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18  
19  
20 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
21 interest and the responsibility of the Medical Board of California of the Department of Consumer  
22 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
23 which will be submitted to the Board for approval and adoption as the final disposition of the  
24 Accusation.

25 **PARTIES**

26 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
27 California (Board). He brought this action solely in his official capacity and is represented in this  
28

1 matter by Rob Bonta, Attorney General of the State of California, by David Carr, Deputy  
2 Attorney General.

3 2. Respondent Pirouz Fakhraei, M.D. is represented in this proceeding by attorney  
4 Shannon V. Baker, of Rothschild Wishek & Sands LLP, whose address is: 765 University  
5 Avenue, Sacramento, CA 95825.

6 3. On November 30, 2011, the Board issued Physician's and Surgeon's Certificate No. A  
7 119144 to Pirouz Fakhraei, M.D. (Respondent). The Physician's and Surgeon's Certificate was in  
8 full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-  
9 043342, and will expire on September 30, 2023, unless renewed.

#### 10 **JURISDICTION**

11 4. Third Amended Accusation No. 800-2018-043342 was filed before the Board, and is  
12 currently pending against Respondent. The Third Amended Accusation and all other statutorily  
13 required documents were properly served on Respondent on September 2, 2022. Respondent  
14 timely filed his Notice of Defense contesting the Accusation.

15 5. A copy of Third Amended Accusation No. 800-2018-043342 is attached as Exhibit A  
16 and incorporated herein by reference.

#### 17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Third Amended Accusation No. 800-2018-043342. Respondent has  
20 also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated  
21 Settlement and Disciplinary Order.

22 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
24 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
26 documents; the right to reconsideration and court review of an adverse decision; and all other  
27 rights accorded by the California Administrative Procedure Act and other applicable laws.  
28

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Third Amended Accusation No. 800-2018-043342, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2018-043342, a true and correct copy of which is attached hereto as Exhibit A, and that his Physician's and Surgeon's Certificate, No. A 119144, is therefore subject to disciplinary action.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

3 14. Respondent agrees that if he ever petitions for early termination or modification of  
4 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
5 Board, all of the charges and allegations contained in Third Amended Accusation No. 800-2018-  
6 043342 shall be deemed true, correct and fully admitted by respondent for purposes of any such  
7 proceeding or any other licensing proceeding involving Respondent in the State of California.

8 15. The parties understand and agree that Portable Document Format (PDF) and facsimile  
9 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
10 signatures thereto, shall have the same force and effect as the originals.

11 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
12 the Board may, without further notice or opportunity to be heard by the Respondent, issue and  
13 enter the following Disciplinary Order:

14 **DISCIPLINARY ORDER**

15 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 119144 issued  
16 to Respondent Pirouz Fakhraei, M.D. is revoked. However, the revocation is stayed and  
17 Respondent is placed on probation for five (5) years on the following terms and conditions:

18 1. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**. Within 60 calendar days of  
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
21 Respondent shall participate in and successfully complete that program. Respondent shall  
22 provide any information and documents that the program may deem pertinent. Respondent shall  
23 successfully complete the classroom component of the program not later than six (6) months after  
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
25 time specified by the program, but no later than one (1) year after attending the classroom  
26 component. The professionalism program shall be at Respondent's expense and shall be in  
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

28 A professionalism program taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the program would have  
3 been approved by the Board or its designee had the program been taken after the effective date of  
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the program or not later  
7 than 15 calendar days after the effective date of the Decision, whichever is later.

8 2. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the  
9 effective date of this Decision, Respondent shall enroll in a professional boundaries program  
10 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall  
11 undergo and complete the program's assessment of Respondent's competency, mental health  
12 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive  
13 education and training in the area of boundaries, which takes into account data obtained from the  
14 assessment and from the Decision(s), Accusation(s) and any other information that the Board or  
15 its designee deems relevant. The program shall evaluate Respondent at the end of the training  
16 and the program shall provide any data from the assessment and training as well as the results of  
17 the evaluation to the Board or its designee.

18 Failure to complete the entire program not later than six (6) months after Respondent's  
19 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees  
20 in writing to a later time for completion. Based on Respondent's performance in and evaluations  
21 from the assessment, education, and training, the program shall advise the Board or its designee  
22 of its recommendation(s) for additional education, training, psychotherapy and other measures  
23 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with  
24 program recommendations. At the completion of the program, Respondent shall submit to a final  
25 evaluation. The program shall provide the results of the evaluation to the Board or its designee.  
26 The professional boundaries program shall be at Respondent's expense and shall be in addition to  
27 the Continuing Medical Education (CME) requirements for renewal of licensure.

28 The program has the authority to determine whether or not Respondent successfully

1 completed the program.

2 A professional boundaries course taken after the acts that gave rise to the charges in the  
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
4 or its designee, be accepted towards the fulfillment of this condition if the course would have  
5 been approved by the Board or its designee had the course been taken after the effective date of  
6 this Decision.

7 3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
8 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
9 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
10 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
11 location.

12 If Respondent fails to establish a practice with another physician or secure employment in  
13 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
14 Respondent shall receive a notification from the Board or its designee to cease the practice of  
15 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
16 practice until an appropriate practice setting is established.

17 If, during the course of the probation, the Respondent's practice setting changes and the  
18 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent  
19 shall notify the Board or its designee within five (5) calendar days of the practice setting change.  
20 If Respondent fails to establish a practice with another physician or secure employment in an  
21 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
22 shall receive a notification from the Board or its designee to cease the practice of medicine within  
23 three (3) calendar days after being so notified. The Respondent shall not resume practice until an  
24 appropriate practice setting is established.

25 4. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third  
26 party chaperone present while consulting, examining or treating female patients. Respondent  
27 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its  
28 designee for prior approval name(s) of persons who will act as the third party chaperone.

1 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of  
2 the effective date of this Decision, Respondent shall receive a notification from the Board or its  
3 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
4 Respondent shall cease the practice of medicine until a chaperone is approved to provide  
5 monitoring responsibility.

6 Each third party chaperone shall sign (in ink or electronically) and date each patient  
7 medical record at the time the chaperone's services are provided. Each third party chaperone  
8 shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party  
9 chaperone.

10 Respondent shall maintain a log of all patients seen for whom a third party chaperone is  
11 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical  
12 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,  
13 in chronological order, shall make the log available for immediate inspection and copying on the  
14 premises at all times during business hours by the Board or its designee, and shall retain the log  
15 for the entire term of probation.

16 Respondent is prohibited from terminating employment of a Board-approved third party  
17 chaperone solely because that person provided information as required to the Board or its  
18 designee.

19 If the third party chaperone resigns or is no longer available, Respondent shall, within five  
20 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for  
21 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent  
22 fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or  
23 unavailability of the chaperone, Respondent shall receive a notification from the Board or its  
24 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
25 Respondent shall cease the practice of medicine until a replacement chaperone is approved and  
26 assumes monitoring responsibility.

27 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the



1 Chief Executive Officer at every hospital where privileges or membership are extended to  
2 Respondent, at any other facility where Respondent engages in the practice of medicine,  
3 including all physician and locum tenens registries or other similar agencies, and to the Chief  
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
6 calendar days.

7 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
9 governing the practice of medicine in California and remain in full compliance with any court  
10 ordered criminal probation, payments, and other orders.

11 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby  
12 ordered to reimburse the Board its costs of investigation and enforcement incurred after January  
13 1, 2022, in the amount of \$19,035.00. Costs shall be payable to the Medical Board of California.  
14 Failure to pay such costs shall be considered a violation of probation.

15 Payment must be made in full within 30 calendar days of the effective date of the Order, or  
16 by a payment plan approved by the Medical Board of California. Any and all requests for a  
17 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with  
18 the payment plan shall be considered a violation of probation.

19 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to  
20 repay the Board's costs of investigation and enforcement in this case.

21 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
22 under penalty of perjury on forms provided by the Board, stating whether there has been  
23 compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
25 of the preceding quarter.

26 9. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit.

1        Address Changes

2        Respondent shall, at all times, keep the Board informed of Respondent's business and  
3        residence addresses, email address (if available), and telephone number. Changes of such  
4        addresses shall be immediately communicated in writing to the Board or its designee. Under no  
5        circumstances shall a post office box serve as an address of record, except as allowed by Business  
6        and Professions Code section 2021, subdivision (b).

7        Place of Practice

8        Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
9        of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
10       facility.

11       License Renewal

12       Respondent shall maintain a current and renewed California physician's and surgeon's  
13       license.

14       Travel or Residence Outside California

15       Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
16       areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
17       (30) calendar days.

18       In the event Respondent should leave the State of California to reside or to practice  
19       Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
20       departure and return.

21       10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
22       available in person upon request for interviews either at Respondent's place of business or at the  
23       probation unit office, with or without prior notice throughout the term of probation.

24       11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
25       its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
26       30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
27       defined as any period of time Respondent is not practicing medicine as defined in Business and  
28       Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
2 Respondent resides in California and is considered to be in non-practice, Respondent shall  
3 comply with all terms and conditions of probation. All time spent in an intensive training  
4 program which has been approved by the Board or its designee shall not be considered non-  
5 practice and does not relieve Respondent from complying with all the terms and conditions of  
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
7 on probation with the medical licensing authority of that state or jurisdiction shall not be  
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
9 period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
11 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
12 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
13 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
14 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

15 Respondent's period of non-practice while on probation shall not exceed two (2) years.

16 Periods of non-practice will not apply to the reduction of the probationary term.

17 Periods of non-practice for a Respondent residing outside of California will relieve  
18 Respondent of the responsibility to comply with the probationary terms and conditions with the  
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
20 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
21 Controlled Substances; and Biological Fluid Testing..

22 12. COMPLETION OF PROBATION. Respondent shall comply with all financial  
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
24 completion of probation. This term does not include cost recovery, which is due within 30  
25 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
26 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
27 shall be fully restored.

28 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition

1 of probation is a violation of probation. If Respondent violates probation in any respect, the  
2 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
3 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
4 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
5 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
6 the matter is final.

7 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
8 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
9 the terms and conditions of probation, Respondent may request to surrender his or her license.  
10 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
11 determining whether or not to grant the request, or to take any other action deemed appropriate  
12 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
13 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
14 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
15 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
16 application shall be treated as a petition for reinstatement of a revoked certificate.

17 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
18 with probation monitoring each and every year of probation, as designated by the Board, which  
19 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
20 California and delivered to the Board or its designee no later than January 31 of each calendar  
21 year.

22 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
23 a new license or certification, or petition for reinstatement of a license, by any other health care  
24 licensing action agency in the State of California, all of the charges and allegations contained in  
25 Accusation No. 800-2018-043342 shall be deemed to be true, correct, and admitted by  
26 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
27 restrict license.

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Shannon V. Baker. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

11/08/2022

  
PIROUZ FAKHRAEI, M.D.  
Respondent

I have read and fully discussed with Respondent Pirouz Fakhraei, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

11/8/22

  
SHANNON V. BAKER  
Attorney for Respondent

ENDORSEMENT


The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED:

November 8, 2022

Respectfully submitted,

ROB BONTA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General

  
DAVID CARR  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation No. 800-2018-043342**

1 ROB BONTA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 CAITLIN ROSS  
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7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Third Amended  
Accusation Against:

Case No. 800-2018-043342

**THIRD AMENDED ACCUSATION**

13 **Pirouz Fakhraei, M.D.**  
14 **401 Bicentennial Way**  
**Santa Rosa, CA 95403-2149**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 119144,**

17 Respondent.

18  
19  
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Third Amended Accusation solely in his  
22 official capacity as the Executive Director of the Medical Board of California, Department of  
23 Consumer Affairs (Board).

24 2. On or about November 30, 2011, the Board issued Physician's and Surgeon's  
25 Certificate Number A 119144 to Pirouz Fakhraei, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on September 30, 2023, unless renewed.

28 ///

**JURISDICTION**

3. This Third Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.



1           6.     Section 2266 of the Code states: The failure of a physician and surgeon to maintain  
2 adequate and accurate records relating to the provision of services to their patients constitutes  
3 unprofessional conduct.

4                                   **COST RECOVERY**

5           7.     Effective January 1, 2022, Section 125.3 of the Code provides, in pertinent part, that  
6 the Board may request the administrative law judge to direct a licensee found to have committed  
7 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
8 investigation and enforcement of the case, with failure of the licensee to comply subjecting the  
9 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
10 enforcement costs may be included in a stipulated settlement.

11                                   **FIRST CAUSE FOR DISCIPLINE**

12                   **(Unprofessional Conduct and/or Gross Negligence and/or Repeated Negligent Acts)**

13           8.     Respondent Pirouz Fakhraei, M.D. is subject to disciplinary action under sections  
14 2234, and 2234, subdivisions (b) and (c), of the Code, in that he committed unprofessional  
15 conduct, and/or gross negligence, and/or repeated negligent acts in his care and treatment of  
16 Patient A.<sup>1</sup> The circumstances are as follows:

17           9.     On or about February 23, 2018, Patient A, a 22-year-old woman, was seen by  
18 Respondent at Kaiser in Santa Rosa for a skin rash on her abdomen, breasts, back and posterior  
19 thigh areas. Respondent left the room for Patient A to undress and put on a gown. Respondent  
20 returned with a female chaperone and conducted a skin check of the affected areas.

21           10.    After the skin examination, Respondent and the female chaperone left the room to  
22 allow Patient A to dress. Patient A was fully dressed and seated on the examination table when  
23 Respondent returned to the room without the chaperone. At that time, Patient A complained to  
24 Respondent about abdominal pain and asked Respondent if it may be due to her intrauterine  
25 device (IUD).

26           ///.

27 \_\_\_\_\_  
28           <sup>1</sup> The patients' identity are kept confidential to protect their privacy but will be revealed to  
Respondent in discovery.

1           11. Respondent asked Patient A about her sexual history and activities. Respondent then  
2 told Patient A to stand up and told her to "pull that down." Patient A was confused as to what  
3 Respondent was asking her to do and asked Respondent for clarification. Respondent pointed to  
4 Patient A's pants and told her to pull them down. Patient A pulled down her pants. Respondent  
5 then told Patient A to "pull that thing down," referring to her thong underwear. Patient A  
6 complied. Respondent looked at Patient A's vagina for approximately five seconds and told her  
7 he was done with the examination. Patient A pulled her pants up.

8           12. Patient A asked Respondent what she should do about her lower stomach pain.  
9 Respondent responded, "If you were my sister, I would suggest that you just use a condom."

10          13. Respondent is guilty of unprofessional conduct, gross negligence, and repeated  
11 negligent acts in his care and treatment of Patient A, including, but not limited to, the following  
12 acts and/or omissions:

13           A. Respondent failed to immediately bring a female chaperone into the examination  
14 room when he intended to examine Patient A's genital area.

15           B. Respondent did not utilize any drapes or gowns to examine Patient A's vaginal area  
16 to maintain dignity and privacy of Patient A.

17           C. Respondent asked Patient A to disrobe, purporting to conduct an examination under  
18 the guise of medical treatment, and without performing a bona fide medical examination.

19           D. Respondent made sexually inappropriate remarks regarding Patient A's complaint of  
20 abdominal pain.

21           E. Respondent failed to conduct a pelvic examination or obtain imaging studies to  
22 evaluate Patient A's reported abdominal pain related to her IUD.

23           F. Respondent failed to document his assessment of Patient A's sexual history and  
24 practices from Patient A during the course of a physical examination.

25           G. Respondent failed to document Patient A's complaint of abdominal pain as it related  
26 to her IUD and Respondent's examination of Patient A's vaginal area.

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**SECOND CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct and/or Gross Negligence and/or Repeated Negligent Acts)**

14. Respondent Pirouz Fakhraei, M.D. is subject to disciplinary action under sections 2234, and 2234, subdivisions (b) and (c), of the Code, in that he committed unprofessional conduct, and/or gross negligence, and/or repeated negligent acts, in his care and treatment of Patient B. The circumstances are as follows:

15. On or about February 24, 2018, Patient B, a 26-year-old woman, was seen by Respondent at Kaiser in Santa Rosa for abdominal pain. There was no female chaperone in the room. Respondent asked Patient B to remove her top. Patient B was wearing only her bra when Respondent examined her abdomen. She was not offered a gown or any draping. Respondent then asked Patient B to stand up with her arms outstretched facing the wall. Respondent then proceeded to remove Patient B's underwear and spread apart her buttocks. Respondent did not conduct an internal examination.

16. Respondent is guilty of unprofessional conduct, gross negligence, and repeated negligent acts in his care and treatment of Patient B, including, but not limited to, the following acts and/or omissions:

A. Respondent failed to immediately bring a female chaperone into the examination room when he asked Patient B to disrobe for the abdominal examination and when he examined Patient B's buttocks area.

B. Respondent did not utilize any drapes or gowns to examine Patient B to maintain dignity and privacy of Patient B.

C. Respondent purported to conduct an examination of Patient B's buttocks area under the guise of medical treatment without performing a bona fide medical examination.

D. Respondent failed to document his examination of Patient B's buttocks area during the course of a physical examination.

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**THIRD CAUSE FOR DISCIPLINE**

**(Failure to Maintain Adequate and Accurate Records)**

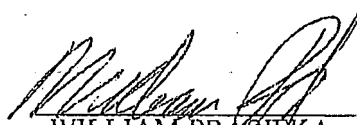
17. Respondent Pirouz Fakhraei, M.D. is subject to disciplinary action under section 2266 of the Code in that Respondent failed to maintain adequate and accurate records. The circumstances are set forth in paragraphs 8 through 16, above, which are incorporated herein by reference as if fully set forth.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 119144, issued to Respondent Pirouz Fakhraei, M.D.;
2. Revoking, suspending or denying approval of Respondent Pirouz Fakhraei, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Pirouz Fakhraei, M.D. to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: SEP 02 2022

  
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WILLIAM PRASIPKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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